IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.964 OF 1994.

The New India Insurance Co.Ltd. ... Appellant.
Versus.
Smt.Madhuri Madhusudan Marwadi & ors.... Respondents.

Mrs.Poornima Kantharia for the Appellant.

Shri R.M.Hardas i/by Shri P.N.Joshi for the Respondents Nos.1 to 4.

CORAM : ABHAY S.OKA, J.

DATED ; 12th February, 2006.

P.C.:

1. Heard the learned Advocates appearing for the parties. The claim petition has been filed under the provisions of the Motor Vehicles Act, 1988. I find from the judgment that a common written statement was filed by the Appellant-insurer and the insured. The Appellant has not obtained a leave under section 170 of the said Act of 1988. No defence has been raised which is covered by section 149(2) of the said Act of 1988. In view of the decision of the Apex Court in the case of Nicolletta Rohtagi v/s. National Insurance Co. [(2002) 7 S.C.C. page 456] the Appeal is not maintainable. Hence the Appeal is dismissed. Interim order stands vacated. No order as to costs.

Judge.